



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 850

SA

Regen cat

1 AN ACT *to amend* 30.12 (1g) (f), 30.12 (1p) (a) (intro.), 30.12 (1p) (a) 2., 30.12 (3m)
2 (a), 30.13 (1) (intro.), 30.285 (1) (a), 30.285 (2) (intro.) and 30.291 (1); and *to*
3 *create* 30.03 (4) (am), 30.12 (1j), 30.12 (1k), 30.12 (3m) (am), 30.12 (3m) (cm),
4 30.12 (3m) (d), 30.206 (1g) and 30.285 (1) (e) of the statutes; **relating to:** the
5 regulation of certain wharves and piers and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 30.03 (4) (am) of the statutes is created to read:
7 30.03 (4) (am) In determining an appropriate remedy for a violation under this
8 chapter relating to a pier or wharf, the department may not order the removal of a
9 pier or wharf unless the department considers all reasonable alternatives offered by
10 the department and the owner of the pier or wharf relating to the location, design,
11 construction, and installation of the pier or wharf.

1 **SECTION 2.** 30.12 (1g) (f) of the statutes is amended to read:

2 **30.12 (1g) (f)** A pier or wharf that is no more than 6 feet wide, that extends no
3 further than to a point where the water is 3 feet at its maximum depth, or to the point
4 where there is adequate depth for mooring a boat or using a boat hoist or boat lift,
5 whichever is closer to farther from the shoreline, and ~~which that~~ has no more ~~that~~
6 than 2 boat slips for the first 50 feet of riparian owner's shoreline footage and no more
7 than one additional boat slip for each additional 50 feet of the riparian owner's
8 shoreline.

9 **SECTION 3.** 30.12 (1j) of the statutes is created to read:

10 **30.12 (1j) BOAT SLIPS FOR CERTAIN PIERS AND WHARVES.** (a) Subject to pars. (b)
11 and (c), a riparian owner that has 3 or more dwelling units, or has structures for
12 commercial or industrial uses, on contiguous riparian property that is adjacent to a
13 lake of 50 acres or more may, in lieu of placing a pier or wharf under sub. (1g) (f), place
14 a pier or wharf that has either of the following number of boat slips, whichever is
15 smaller:

16 1. Four boat slips for the first 50 feet of the riparian owner's shoreline footage
17 and no more than 2 boat slips for each additional 50 feet of the riparian owner's
18 shoreline footage.

19 2. One boat slip for each dwelling unit, plus an additional number of boat slips
20 if the additional slips are open to the public at all times and the use of the additional
21 slips is limited to the transient docking of boats for less than 24 hours.

22 (b) If a riparian owner elects to place a pier or wharf with the number of boat
23 slips specified in par. (a), the pier or wharf must be located in an area other than an
24 area of special natural resource interest, may not interfere with the riparian rights
25 of other riparian owners, and must meet all of the requirements for the placement

if the number of slips proposed does not exceed the number allowed under par. (a)

1 of the pier or wharf specified under sub. (1g) (f) except for the limitation on the
2 number of boat slips allowed under sub. (1g) (f).

3 (c) If a riparian owner is eligible and proposes to place a pier or wharf with the
4 number of boat slips specified in par. (a), the riparian owner shall apply to the
5 department for an individual permit under s. 30.208 authorizing the configuration
6 of the pier or wharf unless the configuration is authorized by the department under
7 a general permit under s. 30.206 (1g). The department may not deny the permit
8 solely on the basis of the number of slips proposed by the riparian owner. A riparian
9 owner who applies for a permit under this paragraph shall be presumed to be entitled
10 to the number of slips allowed under par. (a).

****NOTE: This provision, as drafted, implies that the riparian owner may be able
to have more slips than the maximum allowed given that DNR may not deny a permit
solely on the basis of the number of slips proposed by the owner. Is this intended?

11 **SECTION 4.** 30.12 (1k) of the statutes is created to read:

12 **30.12 (1k) EXEMPTION FOR CERTAIN STRUCTURES.** (a) In this subsection,
13 “structure” means a pier, wharf, boat shelter, boat hoist, or boat lift.

14 (b) 1. In addition to the exemptions under sub. (1g), a riparian owner of a boat
15 shelter, boat hoist, or boat lift that was placed on the bed of a navigable water on or
16 before February 6, 2004, is exempt from the permit requirements under this section.

17 2. In addition to the exemptions under sub. (1g), a riparian owner of a pier or
18 wharf that was placed on the bed of a navigable water on or before February 6, 2004,
19 is exempt from the permit requirements under this section if all of the following
20 apply:

21 a. The pier or wharf is not more than 8 feet wide as measured across the
22 shortest horizontal distance of any portion of the pier or wharf surface, except that
23 a pier may have a single area as a loading platform that exceeds 8 feet in width if that

area is located at the lakeward end of the pier and does not exceed 200 square feet in surface area.

****NOTE: Please note that this description uses the term "lakeward end" Is it possible for the pier to be placed on a river? If so, this provision may need redrafting.

****NOTE: When the square footage limitation has been determined, I will include it in this provision.

b. The pier or wharf does not interfere with the riparian rights of other riparian owners.

c. The riparian owner registers the pier or wharf with the department, in the manner and form required by the department, no later than the first day of the 36th month beginning after the effective date of this subd. 2. c. [revisor inserts date].

3. The department shall make available to riparian owners a form for registration of a pier or wharf under this paragraph that is designed so that it may be recorded with the register of deeds. A riparian owner may, but is not required to, record the registration form with the register of deeds of the county where the pier or wharf is located. The register of deeds may charge the fee under s. 59.43 (2) (ag) for the recording of a pier or wharf registration under this paragraph. The department may not charge a fee for the registration of a pier or wharf under this paragraph.

(c) Except as provided in par. (d), the department may not take any enforcement action under this chapter against a riparian owner of any of the following:

1. A structure for which the department has issued a permit under this section on or before February 6, 2004, if the structure is in compliance with that permit.

2. A structure for which the department has issued a written authorization on or before February 6, 2004, if the structure is in compliance with that written authorization.

3. A structure that is exempt under par. (b).

****NOTE: The /P1 version of this draft contained a provision created as s. 30.12 (1k) (d). That provision was as follows: "(d) Except as provided in par. (dm), the department may not take any enforcement action under this chapter against a riparian owner of a wharf or pier who does not hold a permit as required under this section unless the structure constitutes an unlawful obstruction of navigable waters under s. 30.13." I have removed that provision from this version of the draft because I think this concept is covered by the created language in s. 30.12 (1k) (c). Please review this issue closely to ensure that the removal of this provision does not have unintended consequences.

1 (d) The prohibition on enforcement action under pars. (c) does not apply to
2 enforcement action initiated by the department before February 6, 2004, if the
3 enforcement action remains pending on the effective date of this paragraph
4 [revisor inserts date].

5 (e) A riparian owner who is exempt under par. (b) from the permit requirements
6 under this section or who is exempt under par. (c) from enforcement action under this
7 chapter may do all of the following:

8 1. Repair, maintain, or replace the exempt structure without obtaining a
9 permit from the department under this section unless the owner enlarges the
10 structure.

11 2. If the exempt structure is a pier or wharf, relocate or reconfigure the pier or
12 wharf if the riparian owner registered the pier or wharf with the department under
13 par. (b) 2. c. and, before relocating or reconfiguring the pier or wharf, *reconfigures or relocated* reregisters the
14 pier or wharf with the department under this subdivision. The department may not
15 object to a minor relocation or reconfiguration. If the department objects to the
16 relocation or reconfiguration of the pier or wharf, and the riparian owner retains the
17 pier or wharf in its original location and configuration, the pier or wharf continues
18 to qualify for the exemptions under pars. (b) and (c).

****NOTE: This provision applies to the relocation and reconfiguration of both permanent and seasonal piers and requires registration with the department before relocation and reconfiguration. Is this O.K.?

1 (f) A decision of the department against the owner of a structure for which an
2 exemption is claimed under this subsection is subject to a trial de novo.

3 **SECTION 5.** 30.12 (1p) (a) (intro.) of the statutes is amended to read:

4 30.12 (1p) (a) (intro.) The department may promulgate rules concerning the
5 exempt activities under sub. (1g) and concerning boat slips for piers and wharves
6 under sub. (1j) that only do any of the following:

7 **SECTION 6.** 30.12 (1p) (a) 2. of the statutes is amended to read:

8 30.12 (1p) (a) 2. Establish reasonable construction and design requirements
9 for the placement of structures under sub. (1g) (c), (d), (f), (g), (h), and (km) that are
10 consistent with the purpose of the activity and for the placement of boat slips under
11 sub. (1j). *piers and wharves*

12 **SECTION 7.** 30.12 (3m) (a) of the statutes is amended to read:

13 30.12 (3m) (a) For a structure or deposit that is not exempt under sub. (1g) and
14 that is not subject to a general permit under sub. (3), and for a structure or deposit
15 for which the department requires an individual permit under sub. (2m) or s. 30.206
16 (3r), a riparian owner may apply to the department for the individual permit that is
17 required under sub. (1) in order to place the structure for the owner's use or to deposit
18 the material.

19 **SECTION 8.** 30.12 (3m) (am) of the statutes is created to read:

20 30.12 (3m) (am) 1. Except as provided under subd. 2., the department may not
21 refuse to allow a riparian owner to apply for an individual permit for the placement
22 of a pier or wharf, including a solid pier, that exceeds the number of boat slips
23 authorized under sub. (1g) (f) or (1j). The department shall evaluate permit
24 applications under this paragraph on an individual basis and shall grant such

1 applications if the department finds that the pier or wharf meets the requirements
2 under par. (c) 1. to 3.

3 2. The department may refuse to allow a riparian owner that has 3 or more
4 dwelling units on contiguous riparian property adjacent to a lake of 50 acres or more
5 to apply for an individual permit for the placement of a pier or wharf with a number
6 of boat slips that exceeds the number of boat slips specified in sub. (1j) (a) 2.

7 **SECTION 9.** 30.12 (3m) (cm) of the statutes is created to read:

8 30.12 (3m) (cm) In determining whether to issue an individual permit to the
9 owner of a proposed pier or wharf, the department may not deny the permit unless
10 the department considers all reasonable alternatives offered by the department and
11 the owner of the pier or wharf relating to the location, design, construction, and
12 installation of the pier or wharf.

13 **SECTION 10.** 30.12 (3m) (d) of the statutes is created to read:

14 30.12 (3m) (d) 1. In this paragraph, “solid pier” means a pier that does not allow
15 for the free flow of water beneath the pier.

16 2. The department may promulgate rules that limit the issuance of individual
17 permits for solid piers to outlying waters, harbors connected to outlying waters, the
18 Fox River from the dam at De Pere to Lake Winnebago, Lake Winnebago, and the
19 Mississippi River. The rules may establish reasonable conditions to implement the
20 criteria under par. (c) 1. to 3. The rules may not prohibit the issuance of individual
21 permits for solid piers used for private or commercial purposes.

22 **SECTION 11.** 30.13 (1) (intro.) of the statutes is amended to read:

23 30.13 (1) CONSTRUCTION ALLOWED WITHOUT PERMIT UNDER CERTAIN
24 CIRCUMSTANCES. (intro.) A riparian proprietor may construct a wharf or pier in a
25 navigable waterway extending beyond the ordinary high-water mark or an

1 established bulkhead line in aid of navigation without obtaining a permit under s.
2 30.12 if the wharf or pier is exempt from obtaining a permit under s. 30.12 or if all
3 of the following conditions are met:

****NOTE: Current law regulates piers and wharves placed by riparian owners under both s. 30.12 and s. 30.13. Those provisions in current law are not entirely consistent. This provision is my attempt to reconcile these provisions ~~and to make clear that s. 30.13 does not apply to those piers and wharves that are regulated under s. 30.12.~~ Please review this provision very closely, however, to ensure that this provision is consistent with your instructions.

4 **SECTION 12.** 30.206 (1g) of the statutes is created to read:

5 30.206 (1g) GENERAL PERMIT FOR CERTAIN PIERS AND WHARVES. The department
6 may issue a general permit under this section for the configuration of a pier or wharf
7 under s. 30.12 (1j).

8 **SECTION 13.** 30.285 (1) (a) of the statutes is amended to read:

9 30.285 (1) (a) The number of exempted activities that are conducted under ss.
10 30.12 (1g) and (1k), 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department
11 is aware.

12 **SECTION 14.** 30.285 (1) (e) of the statutes is created to read:

13 30.285 (1) (e) The number of piers and wharves for which the department
14 issued a permit authorizing the configuration of the pier or wharf under s. 30.12 (1j)
15 (c).

16 **SECTION 15.** 30.285 (2) (intro.) of the statutes is amended to read:

17 30.285 (2) (intro.) For each record kept under sub. (1) (b) to ~~(d)~~ (e), the
18 department shall include all of the following:

19 **SECTION 16.** 30.291 (1) of the statutes is amended to read:

20 30.291 (1) For purposes of determining whether an exemption is appropriate
21 under s. 30.12 (1k), (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r), whether
22 a general permit is appropriate under s. 30.206 (3), or whether authorization to

1 proceed under a general permit is appropriate under s. 30.206 (3r), any employee or
2 other representative of the department, upon presenting his or her credentials, may
3 enter the site and inspect any property on the site.

4 (END)

✓ check for "industrial" - take out

✓ pre-existing piers & wharves (before 2/6/04)
 + not qualifying for grandfathering under
 under (1)(k) + apply for permit must
 meet 30.13(1) standards DNR may
 maybe put in 30.12 (3m)? not charge a
 fee

pg. 3 lines 22 to page 4 line 2
 platform can exceed 8 ft in width but
 if under 200 sq ft in area it can be
 any width but 200-300 sq ft, no
 more than 10 ft wide

✓ motor boat fuel formula -
 beginning 2006-07 fiscal year + ending
 3 years later (June 30, 2009) -
 change formula 55 gallons instead
 of 50 gallons (then goes back to 50
 on June 30, 2009)

25.29
 (1)(c)

✓ increase appropriation
 20.370(4)(ag) - increase by
 for purposes of this act -

2d year
 of this bill
 106-07

130,000

Kite, Robin

From: Patronsky, Mark
Sent: Saturday, March 04, 2006 11:57 AM
To: Kite, Robin
Subject: gunderson pier inspections.doc

I sorted through the inspection statutes----bottom line---the Assembly Sub was correct.

M

Inspection authority

30.291

Gives limited inspection authority

Sets conditions for inspections

Applies to exemptions and general permits

Note cross references to 30.12 (2m) and (2r)

Doesn't apply to individual permits

Assume indiv permits have a condition that applicant must allow inspection?

Exemptions

30.12 (2m) permit in lieu of exemption

Cross reference to (1g)

DNR initiates

DNR must visit site

Inspection authority is in 30.291

30.12 (2r) exemption determination

Owner initiates and must consent to entry by DNR

Addition of 30.12 (1k)

No inspection authority under current statutes

Not a solution—add (1k) reference in 30.12 (2m)

Reason—doesn't use the 30.13 standards

Solution—current draft—add (1k) reference in 30.291

No need to add reference to (1g)

That statute is an individual permit, not an exemption

Save outlines/gunderson pier inspection



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 850

SAV

Regen cat

structures in navigable waters,
and making an appropriation

1 AN ACT *to amend* 30.12 (1g) (f), 30.12 (1p) (a) (intro.), 30.12 (1p) (a) 2., 30.12 (3m)
2 (a), 30.13 (1) (intro.), 30.285 (1) (a), 30.285 (2) (intro.) and 30.291 (1); and *to*
3 *create* 30.03 (4) (am), 30.12 (1j), 30.12 (1k), 30.12 (3m) (am), 30.12 (3m) (cm),
4 30.12 (3m) (d), 30.206 (1g) and 30.285 (1) (e) of the statutes; **relating to:** the
5 regulation of certain wharves and piers and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

insert 1-6 →
6 **SECTION 1.** 30.03 (4) (am) of the statutes is created to read:
7 30.03 (4) (am) In determining an appropriate remedy for a violation under this
8 chapter relating to a pier or wharf, the department may not order the removal of a
9 pier or wharf unless the department considers all reasonable alternatives offered by
10 the department and the owner of the pier or wharf relating to the location, design,
11 construction, and installation of the pier or wharf.

STET: leave
as typed

SECTION 2. 30.12 (1g) (f) of the statutes is amended to read:

30.12 (1g) (f) A pier or wharf that is no more than 6 feet wide, that extends no further than to a point where the water is 3 feet at its maximum depth, or to the point where there is adequate depth for mooring a boat or using a boat hoist or boat lift, whichever is closer to farther from the shoreline, and which that has no more than 2 boat slips for the first 50 feet of riparian owner's shoreline footage and no more than one additional boat slip for each additional 50 feet of the riparian owner's shoreline.

SECTION 3. 30.12 (1j) of the statutes is created to read:

30.12 (1j) BOAT SLIPS FOR CERTAIN PIERS AND WHARVES (a) Subject to pars. (b) and (c), ~~a riparian owner that has 3 or more dwelling units, or has structures for commercial or industrial uses, on contiguous riparian property that is adjacent to a lake of 50 acres or more~~ ^{property that is adjacent to a lake of 50 acres or more and on which there are} may, in lieu of ~~placing a pier or wharf~~ ^{have} under sub. (1g) (f), ~~place~~ ^{described} a pier or wharf that has either of the following number of boat slips, whichever is smaller:

1. Four boat slips for the first 50 feet of the ~~riparian owner's~~ ^{property's} shoreline footage and no more than 2 boat slips for each additional 50 feet of the ~~riparian owner's~~ ^{property's} shoreline footage.

2. One boat slip for each dwelling unit, plus an additional number of boat slips if the additional slips are open to the public ~~at all times~~ and the use of the additional slips is limited to the transient docking of boats for less than 24 hours.

(b) If ~~a~~ ^{the} riparian owner ~~elects~~ ^{or owners} to place a pier or wharf with the number of boat slips specified in par. (a), the pier or wharf must be located in an area other than an area of special natural resource interest, may not interfere with the riparian rights of other riparian owners, and must meet all of the requirements for the placement

of ~~property~~ ^{property} described in par. (a) ~~is~~ ^{are} eligible

of the pier or wharf specified under sub. (1g) (f) except for the limitation on the number of boat slips allowed under sub. (1g) (f).

(c) If ^{the} a riparian owner ^{or owners are} is eligible and proposes to place a pier or wharf with the number of boat slips specified in par. (a), the riparian owner shall apply to the department for an individual permit under s. 30.208 authorizing the configuration of the pier or wharf unless the configuration is authorized by the department under a general permit under s. 30.206 (1g). The department may not deny the permit ^{or owners} solely on the basis of the number of slips proposed by the riparian owner if the number of slips proposed does not exceed the number allowed under par. (a). A riparian owner ^{or owners} who ^{apply} applies for a permit under this paragraph shall be presumed to be entitled to the number of slips allowed under par. (a).

SECTION 4. 30.12 (1k) of the statutes is created to read:

30.12 (1k) EXEMPTION FOR CERTAIN STRUCTURES. (a) In this subsection, "structure" means a pier, wharf, boat shelter, boat hoist, or boat lift.

~~(b) 1. In addition to the exemptions under sub. (1g), a riparian owner of a boat shelter, boat hoist, or boat lift that was placed on the bed of a navigable water on or before February 6, 2004, is exempt from the permit requirements under this section.~~

(b) 2. In addition to the exemptions under sub. (1g), a riparian owner of a pier or wharf that was placed on the bed of a navigable water on or before February 6, 2004, is exempt from the permit requirements under this section if all of the following apply:

1. The pier or wharf is not more than 8 feet wide as measured across the shortest horizontal distance of any portion of the pier or wharf surface, except that a pier may have ^{an} a single area as a loading platform that exceeds 8 feet in width if ~~that~~

the platform 300
area is located at the lakeward end of the pier, or located at the end of the pier that extends into a stream, and does not exceed [xxx] square feet in surface area. (Insert 4-2)

***NOTE: when the square footage limitation has been determined, I will include it in this provision.

2.
The pier or wharf does not interfere with the riparian rights of other riparian owners.

3.
The riparian owner registers the pier or wharf with the department, in the manner and form required by the department, no later than the first day of the 36th month beginning after the effective date of this subd. 2. c. [revisor inserts date]. subdivision

(c)
The department shall make available to riparian owners a form for registration of a pier or wharf under subd. 2. c. that is designed so that it may be recorded with the register of deeds. A riparian owner may, but is not required to, record the registration form with the register of deeds of the county where the pier or wharf is located. The register of deeds may charge the fee under s. 59.43 (2) (ag) for the recording of a pier or wharf registration under subd. 2. c. The department may not charge a fee for the registration of a pier or wharf under subd. 2. c. par. (b) 3.

(cm)
(d) Except as provided in par. (d), the department may not take any enforcement action under this chapter against a riparian owner of any of the following: for

1. A structure for which the department has issued a permit under this section on or before February 6, 2004, if the structure is in compliance with that permit.

2. A structure for which the department has issued a written authorization on or before February 6, 2004, if the structure is in compliance with that written authorization.

3. A structure that is exempt under par. (b).

****NOTE: The /P1 version of this draft contained a provision created as s. 30.12 (1k) (d). That provision was as follows: "(d) Except as provided in par. (dm), the department may not take any enforcement action under this chapter against a riparian owner of a

wharf or pier who does not hold a permit as required under this section unless the structure constitutes an unlawful obstruction of navigable waters under s. 30.13." I have removed that provision from this version of the draft because I think this concept is covered by the created language in s. 30.12 (1k) (c). Please review this issue closely to ensure that the removal of this provision does not have unintended consequences.

(d) The prohibition on enforcement action under ~~par. (c)~~ does not apply to enforcement action initiated by the department before February 6, 2004, if the enforcement action remains pending on the effective date of this paragraph [revisor inserts date].

(e) A riparian owner who is exempt under par. (b) from the permit requirements under this section or who is exempt under par. ~~(c)~~ ^(cm) from enforcement action under this chapter may do all of the following:

1. Repair, maintain, or replace the exempt structure without obtaining a permit from the department under this section unless the owner enlarges the structure.

2. If the exempt structure is a pier or wharf, relocate or reconfigure the pier or wharf if the riparian owner registered the pier or wharf with the department under par. (b) ~~2. c~~ ^{3.} and, before relocating or reconfiguring the pier or wharf, registers the reconfigured or relocated pier or wharf with the department under this subdivision. The department may not object to a minor relocation or reconfiguration. If the department objects to the relocation or reconfiguration of the pier or wharf, and the riparian owner retains the pier or wharf in its original location and configuration, the pier or wharf continues to qualify for the exemptions under pars. (b) and ~~(c)~~ ^(cm).

****NOTE: This provision applies to the relocation and reconfiguration of both permanent and seasonal piers and requires registration with the department before relocation and reconfiguration. Is this O.K.?

(f) A decision of the department against the owner of a structure for which an exemption is claimed under this subsection is subject to a trial de novo.

the riparian owner

1 **SECTION 5.** 30.12 (1p) (a) (intro.) of the statutes is amended to read:

2 30.12 (1p) (a) (intro.) The department may promulgate rules concerning the
3 exempt activities under sub. (1g) and concerning piers and wharves under sub. (1j)
4 that only do any of the following:

5 **SECTION 6.** 30.12 (1p) (a) 2. of the statutes is amended to read:

6 30.12 (1p) (a) 2. Establish reasonable construction and design requirements
7 for the placement of structures under sub. (1g) (c), (d), (f), (g), (h), and (km) that are
8 consistent with the purpose of the activity and for piers and wharves under sub. (1j).

9 **SECTION 7.** 30.12 (3m) (a) of the statutes is amended to read:

10 30.12 (3m) (a) For a structure or deposit that is not exempt under sub. (1g) and
11 that is not subject to a general permit under sub. (3), and for a structure or deposit
12 for which the department requires an individual permit under sub. (2m) or s. 30.206
13 (3r), a riparian owner may apply to the department for the individual permit that is
14 required under sub. (1) in order to place the structure for the owner's use or to deposit
15 the material.

16 **SECTION 8.** 30.12 (3m) (am) of the statutes is created to read:

17 30.12 (3m) (am) 1. Except as provided under subd. 2., the department may not
18 refuse to allow a riparian owner to apply for an individual permit for the placement
19 of a pier or wharf, including a solid pier, that exceeds the number of boat slips
20 authorized under sub. (1g) (f) or (1j). The department shall evaluate permit
21 applications under this paragraph on an individual basis and shall grant such
22 applications if the department finds that the pier or wharf meets the requirements
23 under par. (c) 1. to 3.

24 2. The department may ~~refuse to allow~~ a riparian owner ~~that has 3 or more~~
25 ~~dwelling units on contiguous riparian~~ property adjacent to a lake of 50 acres or more

of a

that is

deny an individual permit to the
or owners
an individual permit
to the riparian owner

and on which there are 3 or more dwelling units if the riparian owner or owners apply for

1 ~~to apply for~~ an individual permit for the placement of a pier or wharf with a number
2 of boat slips that exceeds the number of boat slips specified in sub. (1j) (a) 2.

3 **SECTION 9.** 30.12 (3m) (cm) of the statutes is created to read:

4 30.12 (3m) (cm) In determining whether to issue an individual permit to the
5 owner of a proposed pier or wharf, the department may not deny the permit unless
6 the department considers all reasonable alternatives offered by the department and
7 the owner of the pier or wharf relating to the location, design, construction, and
8 installation of the pier or wharf.

9 **SECTION 10.** 30.12 (3m) (d) of the statutes is created to read:

10 30.12 (3m) (d) 1. In this paragraph, "solid pier" means a pier that does not allow
11 for the free flow of water beneath the pier.

12 2. The department may promulgate rules that limit the issuance of individual
13 permits for solid piers to outlying waters, harbors connected to outlying waters, the
14 Fox River from the dam at De Pere to Lake Winnebago, Lake Winnebago, and the
15 Mississippi River. The rules may establish reasonable conditions to implement the
16 criteria under par. (c) 1. to 3. The rules may not prohibit the issuance of individual
17 permits for solid piers used for private or commercial purposes.

18 **SECTION 11.** 30.13 (1) (intro.) of the statutes is amended to read:

19 30.13 (1) CONSTRUCTION ALLOWED WITHOUT PERMIT UNDER CERTAIN
20 CIRCUMSTANCES. (intro.) A riparian proprietor may construct a wharf or pier in a
21 navigable waterway extending beyond the ordinary high-water mark or an
22 established bulkhead line in aid of navigation without obtaining a permit under s.
23 30.12 if the wharf or pier is exempt from obtaining a permit under s. 30.12 or if all
24 of the following conditions are met:

Insert
7-2

***NOTE: Current law regulates piers and wharves placed by riparian owners under both s. 30.12 and s. 30.13. Those provisions in current law are not entirely consistent. This provision is my attempt to reconcile these provisions. Please review this provision very closely, however, to ensure that this provision is consistent with your instructions.

SECTION 12. 30.206 (1g) of the statutes is created to read:

30.206 (1g) GENERAL PERMIT FOR CERTAIN PIERS AND WHARVES. The department may issue a general permit under this section for the configuration of a pier or wharf under s. 30.12 (1j).

SECTION 13. 30.285 (1) (a) of the statutes is amended to read:

30.285 (1) (a) The number of exempted activities that are conducted under ss. 30.12 (1g) and (1k), 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department is aware.

SECTION 14. 30.285 (1) (e) of the statutes is created to read:

30.285 (1) (e) The number of piers and wharves for which the department issued a permit authorizing the configuration of the pier or wharf under s. 30.12 (1j) (c).

SECTION 15. 30.285 (2) (intro.) of the statutes is amended to read:

30.285 (2) (intro.) For each record kept under sub. (1) (b) to ~~(d)~~ (e), the department shall include all of the following:

SECTION 16. 30.291 (1) of the statutes is amended to read:

30.291 (1) For purposes of determining whether an exemption is appropriate under s. 30.12 (1k), (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r), whether a general permit is appropriate under s. 30.206 (3), or whether authorization to proceed under a general permit is appropriate under s. 30.206 (3r), any employee or

1 other representative of the department, upon presenting his or her credentials, may
2 enter the site and inspect any property on the site.

3 (END)

insert
9-2

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0555/lins.
RNK:.....

INSERT 1-6

✓

SECTION 1. 25.29 (1) (c) of the statutes is amended to read:

25.29 (1) (c) For fiscal year 1992-93, and for each fiscal year thereafter, an amount equal to the estimated motorboat gas tax payment multiplied by 1.4. The Except for fiscal years 2006-07, 2007-08, and 2008-09, the estimated motorboat gas tax payment is calculated by multiplying the number of motorboats registered under s. 30.52 on January 1 of the previous fiscal year by 50 gallons and multiplying that product by the excise tax imposed under s. 78.01 (1) on April 1 of the previous fiscal year. For fiscal years 2006-07, 2007-08, and 2008-09, the estimated motorboat gas tax payment is calculated by multiplying the number of motorboats registered under s. 30.52 on January 1 of the previous fiscal year by 55 gallons and multiplying that product by the excise tax imposed under s. 78.01 (1) on April 1 of the previous fiscal year.

History: 1971 c. 125; 1973 c. 90; 1977 c. 29; 1977 c. 418 ss. 244, 245, 929 (37); 1979 c. 34 ss. 707v, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1983 a. 27 ss. 636m, 637, 2202 (38); 1985 a. 29 ss. 638g, 3202 (39); 1985 a. 135; 1987 a. 27; 1987 a. 312 s. 17; 1989 a. 31; 1991 a. 39, 269; 1995 a. 27; 1995 a. 257 s. 3; 1997 a. 1, 27, 248; 1999 a. 9; 2001 a. 16, 56, 105; 2003 a. 166.

INSERT 2-8

94
no 9

✓
Notwithstanding the width limitation in this paragraph, a pier may have an area as a loading platform that is 6 feet or more in width if the platform is not more than 8 feet wide, it extends perpendicular to one or both sides of the pier, and it is located at the lakeward end of the pier or at the end of the pier that extends into a stream.

INSERT 4-2

94
no 9

, and meets the following width requirements:

a. If the platform has a surface area of 200 square feet or less, the platform may be of any width.

b. If the platform has a surface area of more than 200 square feet but less than 300 square feet, the platform may not be more than 10 feet wide. *not more*

INSERT 7-2

X
SECTION 2. 30.12 (3m) (ar) of the statutes is created to read:

X 30.12 (3m) (ar) The department may not issue an individual permit under this subsection to a riparian owner for a pier or wharf that was placed on the bed of a navigable water on or before February 6, 2004 unless all of the condition^s under sub^s 30.12 (a) to (e) are met. The department may not charge a riparian owner described under this paragraph a fee for an individual permit issued under this subsection. *S.*

INSERT 9-2

SECTION 3. Appropriation changes.

(1) WATER RESOURCES MANAGEMENT - LAKE, RIVER, AND INVASIVE SPECIES MANAGEMENT. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (4) (aq) of the statutes, as affected by the acts of 2005, the dollar amount is increased by \$130,000 for fiscal year 2006-07 to *increase funding for administration of* administer activities related to permitting and exemption determinations for piers, wharves, and other structures under *such* ~~subch. II~~ of ~~ch. 30~~ of the statutes, as affected by this act. *and*

sections 30.12 (1g), (1j), (1k), (3m), 30.13, and 30.206 (1g)

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0555/1ins.2
RNK:.....

INSERT 2-15

no 9

(a) Subject to pars. (b) and (c), one or more riparian the owners of a property that is adjacent to a lake of 50 acres or more and on which there are 3 or more dwelling units or on which there are commercial structures may, in lieu of placing a pier or wharf described under sub. (1g) (f), place a pier or wharf that has either of the following number of boat slips, whichever is smaller:



State Senator
Neal J. Kedzie

11th Senate District

☐ Thought you might be interested in the enclosed.

☐ Per your request.

CHANGE "55 GALLONS"
TO 50.5 GALLONS

TIGHTEN UP "OTHER
STRUCTURES ON PAGE 9-
10

PER JOHN STOLZENBERG
MARK PATRUSKY



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0555/4

RNK:cjs:rs

2

how

SENATE SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 850

T
stays

see p 2 & p 9

Reg cat

1 AN ACT *to amend* 25.29 (1) (c), 30.12 (1g) (f), 30.12 (1p) (a) (intro.), 30.12 (1p) (a)
2 2., 30.12 (3m) (a), 30.13 (1) (intro.), 30.285 (1) (a), 30.285 (2) (intro.) and 30.291
3 (1); and *to create* 30.03 (4) (am), 30.12 (1j), 30.12 (1k), 30.12 (3m) (am), 30.12
4 (3m) (ar), 30.12 (3m) (cm), 30.12 (3m) (d), 30.206 (1g) and 30.285 (1) (e) of the
5 statutes; **relating to:** the regulation of certain structures in navigable waters,
6 granting rule-making authority, and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 SECTION 1. 25.29 (1) (c) of the statutes is amended to read:
8 25.29 (1) (c) For fiscal year 1992-93, and for each fiscal year thereafter, an
9 amount equal to the estimated motorboat gas tax payment multiplied by 1.4. The
10 Except for fiscal years 2006-07, 2007-08, and 2008-09, the estimated motorboat gas
11 tax payment is calculated by multiplying the number of motorboats registered under
12 s. 30.52 on January 1 of the previous fiscal year by 50 gallons and multiplying that

product by the excise tax imposed under s. 78.01 (1) on April 1 of the previous fiscal year. For fiscal years 2006–07, 2007–08, and 2008–09, the estimated motorboat gas tax payment is calculated by multiplying the number of motorboats registered under s. 30.52 on January 1 of the previous fiscal year by 55 gallons and multiplying that product by the excise tax imposed under s. 78.01 (1) on April 1 of the previous fiscal year.

SECTION 2. 30.03 (4) (am) of the statutes is created to read:

30.03 (4) (am) In determining an appropriate remedy for a violation under this chapter relating to a pier or wharf, the department may not order the removal of a pier or wharf unless the department considers all reasonable alternatives offered by the department and the owner of the pier or wharf relating to the location, design, construction, and installation of the pier or wharf.

SECTION 3. 30.12 (1g) (f) of the statutes is amended to read:

30.12 (1g) (f) A pier or wharf that is no more than 6 feet wide, that extends no further than to a point where the water is 3 feet at its maximum depth, or to the point where there is adequate depth for mooring a boat or using a boat hoist or boat lift, whichever is closer to farther from the shoreline, and ~~which~~ that has no more ~~that~~ than 2 boat slips for the first 50 feet of riparian owner's shoreline footage and no more than one additional boat slip for each additional 50 feet of the riparian owner's shoreline. Notwithstanding the width limitation in this paragraph, a pier may have an area as a loading platform that is 6 feet or more in width if the platform is not more than 8 feet wide, it extends perpendicular to one or both sides of the pier, and it is located at the lakeward end of the pier or at the end of the pier that extends into a stream.

SECTION 4. 30.12 (1j) of the statutes is created to read:

1 **30.12 (1j) BOAT SLIPS FOR CERTAIN PIERS AND WHARVES.** (a) Subject to pars. (b)
2 and (c), the riparian owner or owners of a property that is adjacent to a lake of 50
3 acres or more and on which there are 3 or more dwelling units or on which there are
4 commercial structures may, in lieu of placing a pier or wharf described under sub.
5 (1g) (f), place a pier or wharf that has either of the following number of boat slips,
6 whichever is smaller:

7 1. Four boat slips for the first 50 feet of the property's shoreline footage and no
8 more than 2 boat slips for each additional 50 feet of the property's shoreline footage.

9 2. One boat slip for each dwelling unit, plus an additional number of boat slips
10 if the additional slips are open to the public and the use of the additional slips is
11 limited to the transient docking of boats for less than 24 hours.

12 (b) If the riparian owner or owners of a property described in par. (a) are eligible
13 to place a pier or wharf with the number of boat slips specified in par. (a), the pier
14 or wharf must be located in an area other than an area of special natural resource
15 interest, may not interfere with the riparian rights of other riparian owners, and
16 must meet all of the requirements for the placement of the pier or wharf specified
17 under sub. (1g) (f) except for the limitation on the number of boat slips allowed under
18 sub. (1g) (f).

19 (c) If the riparian owner or owners of a property described in par. (a) are eligible
20 and propose to place a pier or wharf with the number of boat slips specified in par.
21 (a), the riparian owner or owners shall apply to the department for an individual
22 permit under s. 30.208 authorizing the configuration of the pier or wharf unless the
23 configuration is authorized by the department under a general permit under s.
24 30.206 (1g). The department may not deny the permit on the basis of the number of
25 slips proposed by the riparian owner or owners if the number of slips proposed does

1 not exceed the number allowed under par. (a). A riparian owner or owners who apply
2 for a permit under this paragraph shall be presumed to be entitled to the number of
3 slips allowed under par. (a).

4 **SECTION 5.** 30.12 (1k) of the statutes is created to read:

5 30.12 (1k) EXEMPTION FOR CERTAIN STRUCTURES. (a) In this subsection,
6 “structure” means a pier, wharf, boat shelter, boat hoist, or boat lift.

7 (b) In addition to the exemptions under sub. (1g), a riparian owner of a pier or
8 wharf that was placed on the bed of a navigable water on or before February 6, 2004,
9 is exempt from the permit requirements under this section if all of the following
10 apply:

11 1. The pier or wharf is not more than 8 feet wide as measured across the
12 shortest horizontal distance of any portion of the pier or wharf surface, except that
13 a pier may have an area as a loading platform that exceeds 8 feet in width if the
14 platform is located at the lakeward end of the pier, or located at the end of the pier
15 that extends into a stream, does not exceed 300 square feet in surface area, and meets
16 the following width requirements:

17 a. If the platform has a surface area of 200 square feet or less, the platform may
18 be of any width.

19 b. If the platform has a surface area of more than 200 square feet but not more
20 than 300 square feet, the platform may not be more than 10 feet wide.

21 2. The pier or wharf does not interfere with the riparian rights of other riparian
22 owners.

23 3. The riparian owner registers the pier or wharf with the department, in the
24 manner and form required by the department, no later than the first day of the 36th
25 month beginning after the effective date of this subdivision [revisor inserts date].

1 (c) The department shall make available to riparian owners a form for
2 registration of a pier or wharf under par. (b) 3. that is designed so that it may be
3 recorded with the register of deeds. A riparian owner may, but is not required to,
4 record the registration form with the register of deeds of the county where the pier
5 or wharf is located. The register of deeds may charge the fee under s. 59.43 (2) (ag)
6 for the recording of a pier or wharf registration under par. (b) 3. The department may
7 not charge a fee for the registration of a pier or wharf under par. (b) 3.

8 (cm) Except as provided in par. (d), the department may not take any
9 enforcement action under this chapter against a riparian owner for any of the
10 following:

11 1. A structure for which the department has issued a permit under this section
12 on or before February 6, 2004, if the structure is in compliance with that permit.

13 2. A structure for which the department has issued a written authorization on
14 or before February 6, 2004, if the structure is in compliance with that written
15 authorization.

16 3. A structure that is exempt under par. (b).

17 (d) The prohibition on enforcement action under par. (cm) does not apply to
18 enforcement action initiated by the department before February 6, 2004, if the
19 enforcement action remains pending on the effective date of this paragraph
20 [revisor inserts date].

21 (e) A riparian owner who is exempt under par. (b) from the permit requirements
22 under this section or who is exempt under par. (cm) from enforcement action under
23 this chapter may do all of the following:

1 1. Repair, maintain, or replace the exempt structure without obtaining a
2 permit from the department under this section unless the owner enlarges the
3 structure.

4 2. If the exempt structure is a pier or wharf, relocate or reconfigure the pier or
5 wharf if the riparian owner does not enlarge the pier or wharf, the riparian owner
6 registered the pier or wharf with the department under par. (b) 3. and, before
7 relocating or reconfiguring the pier or wharf, the riparian owner registers the
8 reconfigured or relocated pier or wharf with the department under this subdivision.
9 The department may not object to a minor relocation or reconfiguration. If the
10 department objects to the relocation or reconfiguration of the pier or wharf, and the
11 riparian owner retains the pier or wharf in its original location and configuration,
12 the pier or wharf continues to qualify for the exemptions under pars. (b) and (cm).

13 (f) A decision of the department against the owner of a structure for which an
14 exemption is claimed under this subsection is subject to a trial de novo.

15 **SECTION 6.** 30.12 (1p) (a) (intro.) of the statutes is amended to read:

16 30.12 (1p) (a) (intro.) The department may promulgate rules concerning the
17 exempt activities under sub. (1g) and concerning piers and wharves under sub. (1j)
18 that only do any of the following:

19 **SECTION 7.** 30.12 (1p) (a) 2. of the statutes is amended to read:

20 30.12 (1p) (a) 2. Establish reasonable construction and design requirements
21 for the placement of structures under sub. (1g) (c), (d), (f), (g), (h), and (km) that are
22 consistent with the purpose of the activity and for piers and wharves under sub. (1j).

23 **SECTION 8.** 30.12 (3m) (a) of the statutes is amended to read:

24 30.12 (3m) (a) For a structure or deposit that is not exempt under sub. (1g) and
25 that is not subject to a general permit under sub. (3), and for a structure or deposit

1 for which the department requires an individual permit under sub. (2m) or s. 30.206
2 (3r), a riparian owner may apply to the department for the individual permit that is
3 required under sub. (1) in order to place the structure for the owner's use or to deposit
4 the material.

5 **SECTION 9.** 30.12 (3m) (am) of the statutes is created to read:

6 30.12 (3m) (am) 1. Except as provided under subd. 2., the department may not
7 refuse to allow a riparian owner to apply for an individual permit for the placement
8 of a pier or wharf, including a solid pier, that exceeds the number of boat slips
9 authorized under sub. (1g) (f) or (1j). The department shall evaluate permit
10 applications under this paragraph on an individual basis and shall grant such
11 applications if the department finds that the pier or wharf meets the requirements
12 under par. (c) 1. to 3.

13 2. The department may deny an individual permit to the riparian owner or
14 owners of a property that is adjacent to a lake of 50 acres or more and on which there
15 are 3 or more dwelling units if the riparian owner or owners apply for an individual
16 permit for the placement of a pier or wharf with a number of boat slips that exceeds
17 the number of boat slips specified in sub. (1j) (a) 2.

18 **SECTION 10.** 30.12 (3m) (ar) of the statutes is created to read:

19 30.12 (3m) (ar) The department may not issue an individual permit under this
20 subsection to a riparian owner for a pier or wharf that was placed on the bed of a
21 navigable water on or before February 6, 2004, unless all of the conditions under s.
22 30.13 (1) (a) to (e) are met. The department may not charge a riparian owner
23 described under this paragraph a fee for an individual permit issued under this
24 subsection.

25 **SECTION 11.** 30.12 (3m) (cm) of the statutes is created to read:

1 30.12 (3m) (cm) In determining whether to issue an individual permit to the
2 owner of a proposed pier or wharf, the department may not deny the permit unless
3 the department considers all reasonable alternatives offered by the department and
4 the owner of the pier or wharf relating to the location, design, construction, and
5 installation of the pier or wharf.

6 **SECTION 12.** 30.12 (3m) (d) of the statutes is created to read:

7 30.12 (3m) (d) 1. In this paragraph, “solid pier” means a pier that does not allow
8 for the free flow of water beneath the pier.

9 2. The department may promulgate rules that limit the issuance of individual
10 permits for solid piers to outlying waters, harbors connected to outlying waters, the
11 Fox River from the dam at De Pere to Lake Winnebago, Lake Winnebago, and the
12 Mississippi River. The rules may establish reasonable conditions to implement the
13 criteria under par. (c) 1. to 3. The rules may not prohibit the issuance of individual
14 permits for solid piers used for private or commercial purposes.

15 **SECTION 13.** 30.13 (1) (intro.) of the statutes is amended to read:

16 30.13 (1) CONSTRUCTION ALLOWED WITHOUT PERMIT UNDER CERTAIN
17 CIRCUMSTANCES. (intro.) A riparian proprietor may construct a wharf or pier in a
18 navigable waterway extending beyond the ordinary high-water mark or an
19 established bulkhead line in aid of navigation without obtaining a permit under s.
20 30.12 if the wharf or pier is exempt from obtaining a permit under s. 30.12 or if all
21 of the following conditions are met:

22 **SECTION 14.** 30.206 (1g) of the statutes is created to read:

23 30.206 (1g) GENERAL PERMIT FOR CERTAIN PIERS AND WHARVES. The department
24 may issue a general permit under this section for the configuration of a pier or wharf
25 under s. 30.12 (1j).

1 **SECTION 15.** 30.285 (1) (a) of the statutes is amended to read:

2 30.285 (1) (a) The number of exempted activities that are conducted under ss.
3 30.12 (1g) and (1k), 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department
4 is aware.

5 **SECTION 16.** 30.285 (1) (e) of the statutes is created to read:

6 30.285 (1) (e) The number of piers and wharves for which the department
7 issued a permit authorizing the configuration of the pier or wharf under s. 30.12 (1j)
8 (c).

9 **SECTION 17.** 30.285 (2) (intro.) of the statutes is amended to read:

10 30.285 (2) (intro.) For each record kept under sub. (1) (b) to ~~(d)~~ (e), the
11 department shall include all of the following:

12 **SECTION 18.** 30.291 (1) of the statutes is amended to read:

13 30.291 (1) For purposes of determining whether an exemption is appropriate
14 under s. 30.12 (1k), (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r), whether
15 a general permit is appropriate under s. 30.206 (3), or whether authorization to
16 proceed under a general permit is appropriate under s. 30.206 (3r), any employee or
17 other representative of the department, upon presenting his or her credentials, may
18 enter the site and inspect any property on the site.

19 **SECTION 19. Appropriation changes.**

20 (1) WATER RESOURCES MANAGEMENT - LAKE, RIVER, AND INVASIVE SPECIES
21 MANAGEMENT. In the schedule under section 20.005 (3) of the statutes for the
22 appropriation to the department of natural resources under section 20.370 (4) (aq)
23 of the statutes, as affected by the acts of 2005, the dollar amount is increased by
24 \$130,000 for fiscal year 2006-07 to increase funding for administration of activities
(25) related to permitting and exemption determinations for piers, wharves, and other ^{related}

1 structures under sections 30.12 (1g), (1j), (1k), and (3m), 30.13, and 30.206 (1g) of the
2 statutes, as affected by this act.

3 (END)

32